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12/Dec.1.131 P.2

10/3/03

S. Ellis

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Fiedotin, R. et al.

Confirmation No.: 3747

Serial No.: 09/487,932

Art Unit: 3626

Filed: January, 20, 2000

Examiner: Kalinowski, Alexander

For: METHOD AND SYSTEM  
FOR PROVIDING CURRENT  
INDUSTRY SPECIFIC DATA  
TO PHYSICIANS

Attorney Docket No: 10160-007-999

SUPPLEMENTAL DECLARATION OF RICHARD FIEDOTIN  
UNDER 37 C.F.R. § 1.131

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

RECEIVED  
SEP 29 2003  
GROUP 3600

I Richard Alan Fiedotin, hereby declare the following to be true:

1. I am a co-inventor together with Jeffery Tangney and Thomas Lee of the invention described and claimed in the above-identified patent application.
2. nCircle Communications Inc. was founded in 1998 by Jeffrey Tangney and myself, and was later renamed ePocrates Inc. (hereinafter the "Company").
3. Currently, I am the Vice President of Clinical Products for ePocrates, Inc.
4. I contributed to the conception of the subject matter claimed in the above-identified patent application prior to July 1, 1999.
5. I engaged in reasonable diligence from at least just prior to July 1, 1999, until the invention was constructively reduced to practice by filing the above-identified patent application with the United States Patent and Trademark Office on January 20, 2000.

10. Exhibits F, J, and K, originally filed as part of my declaration for the response to the office action mailed October 28, 2002, are resubmitted herewith.

11. Reasonable diligence for the periods from July 30, 1999 - August 6, 1999; August 31, 1999 - September 7, 1999; and September 7, 1999 - September 15, 1999, is shown by Exhibit P and Exhibit Q, annexed hereto.

12. Exhibit Q represents a sampling of code revisions made from August 6, 1999 - September 21, 1999. Exhibit K, previously submitted, represents a sampling of other code revisions made during the same period. These revisions were made to software code for performing at least a portion of the invention claimed in the above-identified patent application. Accordingly, such code revisions demonstrate the Company's continued efforts toward reducing the invention to practice.

13. Exhibit P is a printout of my notes and communications between myself and multiple entities. These entities were engaged to assist in reducing the invention to practice by generating and supplying medical data as required by the claims of the present invention. For example, my communication with Mr. David Green from PCS Health Systems, Inc. on July 14, 1999, represents negotiations for supplying formulary data to the Company. See Exhibit P, page 2.

14. I, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and any patent issuing thereon, or any patent to which this declaration is directed.

Date

9/22/03

DR. RICHARD FIEDOTIN

**BLUELARK**

BlueLark Interactive, LLC

530 Showers Dr.  
Suite 7, PMB303  
Mountain View, CA 94040-1457

## **Invoice**

DATE	INVOICE #
8/1/1999	5

**BILL TO**

nCircle  
c/o Simon Mawby  
smawby@ncircle.com

P.O. NUMBER	TERMS	REP	BILLING PERIOD	PROJECT	
	Due on receipt		7/15- 7/31/99		
HOURS	ITEM CODE	DESCRIPTION	PRICE EACH	SERVICED	AMOUNT
2	NCS2		60.00	7/15/1999	120.00
5	NCS2	Perl Script- "On Formulary" for United Healthcare	60.00	7/15/1999	300.00
4	NCI2	nCircle Interviewing	60.00	7/16/1999	240.00
3	NCS2	nCircle Software Development	60.00	7/17/1999	180.00
6.25	NCI2	nCircle Interviewing	60.00	7/22/1999	375.00
1	NCS2	Adding Formulary Screens	60.00	7/22/1999	60.00
7.5	NCS2	Adding Formulary Screens	60.00	7/24/1999	450.00
1	NCI2	nCircle Interviewing	60.00	7/24/1999	60.00
6	NCS2	added memo screens for PD and PF	60.00	7/25/1999	360.00
7.5	NCI2	Interviewing	60.00	7/25/1999	450.00
5	NCS2	add formulary screens	60.00	7/25/1999	300.00
1.5	NCS2	IM Demo - edit Pfizer vs. PD	60.00	7/26/1999	90.00
4.5	NCS2	Bug Hunting	60.00	7/26/1999	270.00
2	NCS2	Bug Hunting	60.00	7/27/1999	120.00
12.5	NCS2	Rewriting ColView	60.00	7/27/1999	750.00
5	NCS2	Polish PDB Generation App	60.00	7/27/1999	300.00
7	NCS2	ColView, cont'd	60.00	7/28/1999	420.00
2	NCS2	Polish PDB Generation App	60.00	7/29/1999	120.00
1.5	NCS2	Researching Software	60.00	7/29/1999	90.00
7.5	NCS2	Design Meeting	60.00	7/30/1999	450.00

12

7/124

mtg w/ P-D

Contract must hold P-P harmless

Fundings come out of "ArP" pot or "AMP" pot

Theysl have source from:

1/S

Regulatory

Bobs

Brand team

7/130

Pfizer

Jack Krasney

Steve Labkoff ~~etc.~~ - knows Ted Gottlieb, Dan Bales

ReadOnly-2-Rev-1-design.txt  
Application Design Document for ecopeia 2.0

Page 1

ReadOnly-2-Rev-2-design.txt  
Application Design Document for eCopeia 2.0

Primary classes:

Scollable View  
List View  
Free Flowing Text View

Preference Data (Globals)  
Transient Data (Globals)

Database Access  
Database Fast List Access  
String Lookup / Decoding

List Screen

Drug Detail Screen  
AdditionalInfo Screen  
Adverse Reactions Screen  
Contraindications Screen  
Costs Screen  
Dosing Screen  
Interactions Screen  
Memo Pad Screen

About Screen

Preferences Screen

**Early Rx Code Submissions.txt**

The following is a sampling from the first 2000 changes submitted to the ePocrates source code control system, which show the beginnings of the ePocrates Rx product development - the product at that time had the code name 'eCopeia'. The submitted changes cover the period 6-AUG-1999 to 21-SEP-1999.

---

Change 1 by jkleid@vss on 1999/08/06 16:41:00

Design document added

Affected files ...

//depot/main/palm/eCopeia/design.txt#1 add

---

Change 2 by jkleid@vss on 1999/08/06 21:39:00

Class design added

Affected files ...

//depot/main/palm/eCopeia/design.txt#2 edit

---

Change 3 by jkleid@vss on 1999/08/06 21:47:00

Added

Affected files ...

//depot/main/palm/eCopeia/Src/Main.cpp#1 add

---

Change 4 by jkleid@vss on 1999/08/08 21:15:00

rsrc fix

Affected files ...

//depot/main/palm/eCopeia/src/Main.cpp#2 edit

---

Change 5 by ben@vss on 1999/08/08 21:17:00

Affected files ...

//depot/main/palm/eCopeia/src/ListView.cpp#1 add

---

Change 6 by ben@vss on 1999/08/08 21:18:00

Affected files ...

//depot/main/palm/eCopeia/src/ListView.h#1 add

---

Change 7 by jkleid@vss on 1999/08/08 21:20:00 Early Rx Code Submissions.txt  
added Screen

Affected files ...

//depot/main/palm/eCopeia/src/screen.cpp#1 add

-----  
Change 8 by jkleid@vss on 1999/08/08 21:30:00  
Added

Affected files ...

//depot/main/palm/eCopeia/src/screen.h#1 add

-----  
Change 9 by ben@vss on 1999/08/08 23:08:00

Affected files ...

//depot/main/palm/eCopeia/src/Main.cpp#3 edit

-----  
Change 10 by ben@vss on 1999/08/08 23:09:00  
ported from colview

Affected files ...

//depot/main/palm/eCopeia/src/Listview.h#2 edit

-----  
Change 11 by ben@vss on 1999/08/08 23:09:00  
ported from colview

Affected files ...

//depot/main/palm/eCopeia/src/Listview.cpp#2 edit

-----  
Change 12 by jkleid@vss on 1999/08/08 23:11:00

Affected files ...

//depot/main/palm/eCopeia/src/screen.h#2 edit

-----  
Change 13 by jkleid@vss on 1999/08/08 23:11:00

Affected files ...

//depot/main/palm/eCopeia/src/screen.cpp#2 edit

Early Rx Code Submissions.txt

Change 14 by ben@vss on 1999/08/08 23:27:00

fixed build errors

Affected files ...

//depot/main/palm/ecopeia/Src/ListView.cpp#3 edit

=====  
Change 15 by ben@vss on 1999/08/08 23:30:00

fixed build errors

Affected files ...

//depot/main/palm/ecopeia/Src/ListView.h#3 edit

:

=====  
Change 20 by jkleid@vss on 1999/08/08 23:47:00

added

Affected files ...

//depot/main/palm/ecopeia/Src/Vector.h#1 add

:

=====  
Change 25 by ben@vss on 1999/08/09 00:00:00

Affected files ...

//depot/main/palm/ecopeia/Src/ClassListView.cpp#1 add

:

=====  
Change 30 by jkleid@vss on 1999/08/09 00:42:00

used precompiled headers

Affected files ...

//depot/main/palm/ecopeia/Src/ListView.cpp#4 edit

:

=====  
Change 40 by jkleid@vss on 1999/08/09 01:43:00

added methods

Affected files ...

//depot/main/palm/ecopeia/Src/ScreenManager.h#3 edit

:

**Early Rx Code Submissions.txt**

Change 50 by jkleid@vss on 1999/08/09 01:45:00

fixed something

**Affected files ...**//depot/main/palm/eCOPEIA/Src/ScreenManager.cpp#4 edit

:

:

Change 100 by jkleid@vss on 1999/08/10 00:38:00

added constants

**Affected files ...**//depot/main/palm/eCOPEIA/Src/eConstants.h#2 edit

:

:

Change 200 by ben@vss on 1999/08/11 21:21:00

event handling in text view

**Affected files ...**//depot/main/palm/eCOPEIA/Src/TextView.h#7 edit

:

:

Change 300 by jkleid@vss on 1999/08/13 19:06:00

added ctor/dtor

**Affected files ...**//depot/main/palm/eCOPEIA/Src/DrugScreen.h#2 edit

:

:

Change 400 by jkleid@vss on 1999/08/17 01:35:00

no more drawRow

**Affected files ...**//depot/main/palm/eCOPEIA/Src/ClassListView.cpp#12 edit

:

:

Change 500 by jkleid@vss on 1999/08/25 00:39:00

setNumPlans

**Affected files ...**//depot/main/palm/eCOPEIA/Src/Prefs.cpp#10 edit

:

:

Early Rx Code Submissions.txt

change 600 by ben@vss on 1999/08/28 03:26:00

ellipsis

Affected files ...

//depot/main/palm/ecopeia/src/econstants.h#11 edit

=====  
:  
=====

Change 700 by jkleid@vss on 1999/08/29 19:44:00

Affected files ...

//depot/main/palm/ecopeia/Src/ClinicalScreen.cpp#30 edit

=====  
:  
=====

Change 800 by jkleid@vss on 1999/08/31 14:21:00

generics show formulary status

Affected files ...

//depot/main/palm/ecopeia/Src/DrugClassAccess.h#8 edit

=====  
:  
=====

Change 900 by jkleid@vss on 1999/09/05 22:48:00

Affected files ...

//depot/main/palm/ecopeia/src/cClinicalScreen.cpp#53 edit

=====  
:  
=====

Change 1000 by jkleid@vss on 1999/09/07 21:23:00

uses precomp

Affected files ...

//depot/main/palm/ecopeia/Src/DosingView.cpp#5 edit

=====  
:  
=====

Change 1100 by ben@vss on 1999/09/09 19:08:00

working on find

## Early Rx Code Submissions.txt

Affected files ...

//depot/main/palm/ecopeia/src/eConstants.h#28 edit

:

Change 1200 by ben@vss on 1999/09/14 17:05:00

Affected files ...

//depot/main/palm/ecopeia/src/clinicalscreen.cpp#65 edit

:

Change 1300 by jkleid@vss on 1999/09/15 17:04:00

logging

Affected files ...

//depot/main/palm/ecopeia/src/ProHeaders.pch++#4 edit

:

Change 1400 by dan@vss on 1999/09/15 20:59:00

Affected files ...

//depot/main/MAL/MALRoot32/mal/client/palm/conduit/config\_sync0.ico#1 add

:

Change 1500 by rena@vss on 1999/09/16 18:00:00

Affected files ...

//depot/main/server/MALserver/MALSession.java#14 edit

:

Change 1600 by jkleid@vss on 1999/09/17 15:28:00

comments

Affected files ...

//depot/main/palm/ecopeia/src/Prefs.h#25 edit

:

Early Rx Code Submissions.txt

Change 1700 by ben@vss on 1999/09/19 20:27:00

form title popup deleted

Affected files ...

//depot/main/palm/eCopeia/src/classesScreen.cpp#28 edit

Change 1800 by dan@vss on 1999/09/20 20:55:00

Affected files ...

//depot/main/MAL/MALRoot32/mail/client/win/desktop/AGMobileLinkAppletMAL/AGMALAppXMLHandler.c#1 add

Change 1900 by dan@vss on 1999/09/20 21:17:00

Affected files ...

//depot/main/MAL/MALRoot32/mail/install/MALInstall/Setup Files/CVS/Entries.Log#1 add

Change 2000 by jkleid@vss on 1999/09/21 00:22:00

Affected files ...

//depot/main/palm/eCopeia/src/RESOURCE.FRK/Lite.rsrc#4 edit

1. Merck-Medco Merck-Medco / merckmedco

65 M lives

-----Redacted-----

Brad Kogen

-----Redacted-----

tony\_schueth@merck.com

8/4: spoke with tony 201-269-6646. Told him about PD abd Palm exclusive. Sent him e-mail....

8/5: I spoke with Sandy White. I used to work with her at MediSpan when I was at HBOC.... Notes section. She will send me CA and we will go from there.

8/6: tony... He says to **call him in the last week of august (9/1/99)**.

-----Redacted-----

2. PCS Health Systems, Inc. **PCS / pcs**

65 Million lives

400,000 doctors

their formulary is determined by PCS Pharmacy and Therapeutics (P&T) Committee

Formulary Editor

PCS Health Systems, Inc.

5701 Green Valley Drive

Bloomington, Minnesota 55437

Phone: 800-732-9331

Email: [formulary@druglist.com](mailto:formulary@druglist.com)

Internet: <http://www.druglist.com>

PCS Health Systems

9501 E. Shea Blvd.

Scottsdale, AZ 85260

(602) 391-4600

-----Redacted-----

David Green from PCS wants to have a teleconference to discuss some technical issues.

He is particularly interested in:

1. the format we would prefer to receive the formularies in
2. our preferences about updating
3. "physical characteristics"
4. where our server will be located
5. what kind of server we will have
6. whether we will be using FTP or another protocol

He might have a programmer and a telecom person participating on their side of the conversation. He will use this information to make an assessment of the effort involved in their part to get the formularies out of their system.

The process for getting this assessment:

Steps 1 and 2: approval to get estimate and assignment of task to an individual – approximately 1 day

Step 3: Making the assessment – approximately 1 month. The ITD (Information Technology Dept.?) schedule drives the delivery date.

As an inducement to PCS to provide us with formularies, I have offered to subsidize the effort to get the information. He countered with a possible barter or credit arrangement (for Palms).

To Dos:

1. I have tentatively scheduled a teleconference for 10 AM on Monday, 7/19. Let me know if this is OK, Jeff.
2. I am forwarding a document on the technical specs drafted by Jeff several months ago. Could the two of you review it and make any changes necessary. Simon, if you could e-mail it to David and introduce yourself at that time, that would be great. He would like to get an idea of what we need before the meeting.
3. Decide if there is anyone unless we would like to have participate in this conversation on our side.
4. Why don't we congregate around my high-tech telecom node (a.k.a. only phone with decent speaker-phone capabilities we possess) at 10 AM on Monday unless there is a schedule conflict.

-----Redacted-----

8/2: ... where do we stand, when will they make their decision, anything we can do to help, subsidize development, what are their issues, update on us, concerns about us. Left kent msg.

8/5: kent called back...

-----Redacted-----

8/6: left kent msg. That we would go out to AZ to meet Michael Mav (Sr. VP of BD)

3. Express Scripts Value Rx Express Scripts / expressscripts  
25 Million lives  
1-800-281-0712

-----Redacted-----

8/2: shaen is in St. Louis. Will be back in the office on Wednesday. Terri is out on vacation all week.  
8/4: left shawn msg.

-----Redacted-----

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4. CareMark (medpartners) **Caremark / caremark**  
12 Million lives  
David Joyner, VP, Field Management, at 847-559-5466

-----Redacted -----

7/14: left msg w/David Joyner. Joyner called back. He has forwarded my name onto **Dan Lewis (847-559-3776)**, who is responsible for trade relations and promotion of formulary. Lewis should call me. If he does not, I should call joyner and he will expedite the process. dan lewis 800-323-8083 x3776 dan.lewis@ mdmnetwork.com

7/20: left msg. for joyner that I had not heard from dan lewis.

8/2: left dan mesg that I would be senfing info he wants. Information sent.

8/4: left dan msg.

-----Redacted -----

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6. Advance Paradigm Advance Paradigm / AdvPara  
20 Million lives

-----Redacted-----

Ken Goad  
Sr. Director, IT  
Advance Paradigm Clinical Services

-----Redacted-----

8/2: carmen says there are a couple of business issues with the contract. . Relevant people were out of the office last week. she expects to get back to me by Wednesday with their response.

-----Redacted-----

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7. National Prescription Administrators

-----Redacted-----

8/2: left paul msg. .... asking if he can get us a sample of their data so we can begin data architecture. ... Passed msg. to Marilyn gordon, director of formulary services contract mgr, 973-503-1000 ext. 2307 re sample data layout.

8/3: thanked paul

8/5: RedBook lists brands and generics. .... Marilyn will e-mail me excel file. It won't have generics bc they are on mainframe. This is just on/off formulary at the national plan level. There is a lot more info that we need including status on formulary as well as all the different formularies, not just the national one

-----Redacted-----

---

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8. WellPoint Pharmacy Products and Management 13.6 million members  
WellPoint Health Networks Inc.  
uying us  
120 South Via Merida  
Thousand Oaks, California 91362  
(818) 703-4000 800-700-2541  
Valerie Vitto asst for rob sideman, VP of pharmacy (BC of CA pharma ) 818-610-4818  
Formulary is managed by BC

-----Redacted -----

8/2: left rob message w/ secretary.  
8/4: left rob message w/ secretary.

-----Redacted -----

---

---

9. First Health Services Corporation

-----Redacted-----

8/4: left don and jenni messages.

8/5: jenni dorwarded my message to **dan hardin, dir mktg pharmaceutical products.** What is our MD base. 804-965-7735  
hdhardin@fhsc.com

-----Redacted-----

Change 250 by jkleid@vss on 1999/08/12 15:40:00

\* -> Ptr

Affected files ...

//depot/main/palm/eCopeia/Src/PlanAccess.cpp#6 edit

Change 380 by jkleid@vss on 1999/08/16 13:00:00

added

Affected files ...

//depot/main/palm/eCopeia/Src/DrugClassListView.cpp#1 add

Change 420 by jkleid@vss on 1999/08/19 03:45:00

populated with methods

Affected files ...

//depot/main/palm/eCopeia/Src/AboutBox.cpp#2 edit

Change 440 by jkleid@vss on 1999/08/20 03:16:00

findRowWithName

Affected files ...

//depot/main/palm/eCopeia/Src/DrugClassAccess.cpp#4 edit

Change 466 by ben@vss on 1999/08/23 03:30:00

Affected files ...

//depot/main/server/MALServer/MALSession.java#6 edit

Change 470 by jkleid@vss on 1999/08/24 00:48:00

removed planID

Affected files ...

//depot/main/palm/eCopeia/Src/PlanAccess.cpp#11 edit

Change 550 by jkleid@vss on 1999/08/26 00:51:00

Affected files ...

//depot/main/palm/eCopeia/Src/ClassesScreen.cpp#12 edit

Change 570 by jkleid@vss on 1999/08/27 00:34:00

new util name

Affected files ...

//depot/main/palm/eCopeia/Src/eConstants.h#10 edit

Change 720 by ben@vss on 1999/08/30 01:14:00

additional info screen

Affected files ...

//depot/main/palm/eCopeia/Src/ClinicalScreen.cpp#31 edit

Change 825 by ben@vss on 1999/09/01 00:29:00

delete iter

Affected files ...

//depot/main/palm/eCopeia/Src/DrugAccess.h#20 edit

Change 830 by jkleid@vss on 1999/09/02 21:28:00

added

Affected files ...

//depot/main/palm/eCopeia/Src/ContraView.cpp#1 add

Change 850 by jkleid@vss on 1999/09/03 00:09:00

methods added

Affected files ...

//depot/main/palm/eCopeia/Src/CostsView.h#2 edit

Change 950 by ben@vss on 1999/09/06 21:10:00

**bold text to popups**

Affected files ...

//depot/main/palm/eCopeia/Src/TextPopup.cpp#5 edit

Change 1050 by ben@vss on 1999/09/08 18:01:00

fixed global find

Affected files ...

//depot/main/palm/eCopeia/ePocrates-cw5.mcp#5 edit

Change 1120 by jkleid@vss on 1999/09/10 02:45:00

Affected files ...

//depot/main/palm/eCopeia/Src/BeamManager.cpp#7 edit

Change 1170 by dan@vss on 1999/09/13 19:10:00

added SyncAd conduit

Affected files ...

//depot/main/server/MALServer/MALConstants.java#4 edit